

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HUMAN SERVICES COUNCIL OF NEW
YORK,

Plaintiff,

v.

THE CITY OF NEW YORK,

Defendant.

Case No. 1:21-cv-11149-PGG

Judge Paul G. Gardephe

**DECLARATION OF LEON DAYAN IN
SUPPORT OF MOTION TO
INTERVENE**

I, Leon Dayan, pursuant to the provisions of 28 U.S.C. § 1746, declare as follows:

1. I am an attorney duly admitted to practice before the Courts of the State of California and the District of Columbia, and a member of the law firm Bredhoff & Kaiser, PLLC. I have separately moved for admission *pro hac vice* in this Court to serve as counsel for District Council 37, American Federation of State, County and Municipal Employees, AFL-CIO (“DC 37”), in the above-captioned matter.

2. I make this Declaration in support of DC 37’s motion to intervene.

3. On the morning of Monday, February 14, 2022, I called counsel for the Human Services Council of New York (“HSC”), Claude Millman, at the phone number in the signature block of the Complaint filed in the above-captioned matter. I was unable to speak with Mr. Millman and instead left a voicemail. In that voicemail, I stated that I represented DC 37, that DC 37 wished to intervene in the above-captioned matter, and that I wished to confer with him about HSC’s position on DC 37’s anticipated motion to intervene.

4. Having not heard back from Mr. Millman by the afternoon of Monday, February 14, 2022, I sent him an email, asking whether we could represent that HSC would not be opposing DC 37’s motion to intervene. Mr. Millman and I exchanged several additional

messages on the same email chain, seeking a time to confer about the matter. A true and accurate copy of that email chain is attached to this Declaration as Exhibit A.

5. Mr. Millman and I ultimately spoke about DC 37's desire to intervene on the afternoon of Friday, February 18, 2022. During that conversation, Mr. Millman did not offer HSC's position on the anticipated motion to intervene, but instead asked to see all or some of DC 37's draft papers. Mr. Millman did not advise me that HSC planned to file a motion for a preliminary injunction.

6. On the next business day after speaking with Mr. Millman, I sent him via email an excerpt of DC 37's draft memorandum in support of its anticipated motion to intervene. On Wednesday, February 23, 2022, he responded, providing HSC's position on DC 37's motion. A true and correct copy of that email exchange is attached to this Declaration as Exhibit B.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 23, 2022
Washington, DC

/s/ Leon Dayan
Leon Dayan
BREDHOFF & KAISER, P.L.L.C.
805 15th Street NW, Suite 1000
Washington, DC 20005
Phone: 202-842-2600
Fax: 202-842-1888
ldayan@bredhoff.com

EXHIBIT A

From: [Claude Millman](#)
To: [Leon Dayan](#)
Cc: [Caroline Rule](#); [Usman Mohammad](#); [Michelle Lee](#); [Mahima Chaudhary](#)
Subject: [EXTERNAL] Re: HSC v. City of New York
Date: Friday, February 18, 2022 11:42:29 AM

We will circulate a dial-in for 3 pm.

Claude M. Millman
Kostelanetz & Fink, LLP
7 World Trade Center, 34th Floor
New York, NY 10007
212-840-7031 (office)
[REDACTED] (mobile)
Pronouns: He/Him/His
cmillman@kflaw.com

On Feb 18, 2022, at 10:52 AM, Leon Dayan <ldayan@bredhoff.com> wrote:

Claude,

I was hoping that, because you said that you would be available today to talk about this matter, you would have provided us with some times for a phone call. We are still available this afternoon at 2 p.m. and 3 p.m. Will either of those times work? If not, can you please propose some other time?

Thanks,

Leon

From: Leon Dayan <ldayan@bredhoff.com>
Sent: Thursday, February 17, 2022 7:08 PM
To: Claude Millman <cmillman@kflaw.com>
Cc: Caroline Rule <crule@kflaw.com>; Usman Mohammad <umohammad@kflaw.com>; Michelle Lee <mlee@kflaw.com>; Mahima Chaudhary <mchaudhary@kflaw.com>
Subject: Re: HSC v. City of New York

Hi Claude,

Just following up on this. If the times I proposed won't work for you all, do you

have some alternative times? I was hoping to get one of my colleagues on the call, but if the times I proposed won't work for you, I'd like to go ahead with it. Would 3 p.m. or 2 pm work for you?

From: Leon Dayan <ldayan@bredhoff.com>
Sent: Wednesday, February 16, 2022 6:19 PM
To: Claude Millman <cmillman@kflaw.com>
Cc: Caroline Rule <crule@kflaw.com>; Usman Mohammad <umohammad@kflaw.com>; Michelle Lee <mlee@kflaw.com>; Mahima Chaudhary <mchaudhary@kflaw.com>
Subject: Re: HSC v. City of New York

Claude,

Since we were not able to talk today at 5, let's go ahead and schedule a call for Friday. If the call starts on or before 11, that will work for us. Will that work for you?

-Leon

From: Leon Dayan <ldayan@bredhoff.com>
Sent: Wednesday, February 16, 2022 4:03 PM
To: Claude Millman <cmillman@kflaw.com>
Cc: Caroline Rule <crule@kflaw.com>; Usman Mohammad <umohammad@kflaw.com>; Michelle Lee <mlee@kflaw.com>; Mahima Chaudhary <mchaudhary@kflaw.com>
Subject: Re: HSC v. City of New York

We're preparing to file. Can we talk 5 pm today?

[Get Outlook for iOS](#)

From: Claude Millman <cmillman@kflaw.com>
Sent: Wednesday, February 16, 2022 3:43:47 PM
To: Leon Dayan <ldayan@bredhoff.com>
Cc: Caroline Rule <crule@kflaw.com>; Usman Mohammad <umohammad@kflaw.com>; Michelle Lee <mlee@kflaw.com>; Mahima Chaudhary <mchaudhary@kflaw.com>
Subject: [EXTERNAL] Re: HSC v. City of New York

Hi Leon:

Do you have some time to talk on Friday?

Claude

Claude M. Millman
Kostelanetz & Fink, LLP

7 World Trade Center, 34th Floor

New York, NY 10007

212-840-7031 (office)

[REDACTED] (mobile)

Pronouns: He/Him/His

cmillman@kflaw.com

On Feb 14, 2022, at 3:44 PM, Leon Dayan <ldayan@bredhoff.com> wrote:

Claude,

I represent AFSCME District Council 37, which is planning on filing a motion for permissive intervention under Fed. R. Civ. P. 24 in the above-noted case. I left a voice message with you earlier in the day asking whether we can represent that your client will not be opposing our motion. If you'd like to discuss this further, the best number for me is my cell number, which is 202-320-0659. We have already reached out to counsel for the City of New York, and they have advised us that they will not be opposing our motion.

Regards,

Leon

Leon Dayan

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Washington, D.C. 20005
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EXHIBIT B

From: Claude Millman
To: Leon Dayan
Cc: Richard Griffin; Joshua Segal; Michelle Lee; Caroline Rule; Usman Mohammad; Mahima Chaudhary
Subject: [EXTERNAL] Re: HSC v. NYC
Date: Wednesday, February 23, 2022 11:18:10 AM

Leon:

Thank you for sharing your draft papers with us.

HSC has concluded that it is not appropriate for DC 37 to intervene in this action as a defendant.

Please do not make any assumptions about what grounds HSC might assert (e.g., timing; prejudice) in opposing DC 37's motion. We'll be reviewing the law, and HSC reserves its rights.

I do think that our clients have some mutual interests. HSC has partnered with DC 37 on issues before, and we're open to any discussions that might be of interest to DC 37.

Regards,

Claude

Claude M. Millman
Kostelanetz & Fink, LLP
7 World Trade Center, 34th Floor
New York, NY 10007
212-840-7031 (office)
████████ (mobile)
Pronouns: He/Him/His
cmillman@kflaw.com

On Feb 22, 2022, at 6:36 PM, Leon Dayan <ldayan@bredhoff.com> wrote:

Yes, that's fine.

From: Claude Millman <cmillman@kflaw.com>
Sent: Tuesday, February 22, 2022 6:33 PM
To: Leon Dayan <ldayan@bredhoff.com>
Cc: Richard Griffin <rgriffin@bredhoff.com>; Joshua Segal <jsegal@bredhoff.com>; Michelle Lee <mlee@kflaw.com>; Caroline Rule <crule@kflaw.com>; Usman Mohammad <umohammad@kflaw.com>; Mahima Chaudhary <mchaudhary@kflaw.com>
Subject: [EXTERNAL] RE: HSC v. NYC

Leon: Can I get back to you about this by 11:00 a.m. tomorrow?

From: Leon Dayan <ldayan@bredhoff.com>
Sent: Tuesday, February 22, 2022 7:53 AM
To: Claude Millman <cmillman@kflaw.com>
Cc: Richard Griffin <rgriffin@bredhoff.com>; Joshua Segal <jsegal@bredhoff.com>
Subject: HSC v. NYC

Claude,

Thanks again for speaking with us on Friday afternoon. In response to your request on that call, I attach a draft version of the memorandum in support of DC 37's motion to intervene. We continue to tinker with the brief a little, but this likely approximates its final form, with one exception: I've omitted the section of the brief pertaining to timeliness and prejudice on the understanding that you're unlikely to object to the timeliness of DC 37's intervention so early in the proceedings. Please let me know if that's incorrect or if any further information would be helpful. As noted on our call, we hope that your client will be willing to consent to DC 37's intervention.

Best,

Leon

Leon Dayan

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